THE ACTS

PASSED BY THE

LIEUT.-GOVERNOR OF BENGAL IN COUNCIL

IN THE YEARS 1881-82

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TITLES OF THE ACTS

PASSED BY THE

LIEUT.-GOVERNOR OF BENGAL IN COUNCIL

IN

THE YEARS 1881-82.

ACTS OF 1881.

Act No. I—An Act to amend the Calcutta Port Improvement Act Amendment Act, 1880.

" II—An Act to amend the "Cess Act, 1880."

" III—An Act to amend "The Court of Wards' Act, 1879."

" IV—An Act to amend "The Bengal Excise Act, 1878."

" V—An Act to provide for the appointment of a Burial Board in Calcutta and its Suburbs.

" VI—An Act to amend "The Calcutta Municipal Consolidation Act, 1876."

ACTS OF 1882.

Act No. I—An Act further to amend the Calcutta Municipal Consolidation Act, 1876.

" II—An Act to amend the law relating to Embankments and Watercourses.

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IN THE

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P. M. D'M.—Reg. No. 5680G—2000—13-6-82.

ACT No. I of 1881.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(*Received the assent of the Lieutenant-Governor on the 3rd March* 1881, *and of the Governor-General on the 10th April* 1881.)

An Act to amend the Calcutta Port Improvement Act Amendment Act, 1880.

Preamble.

WHEREAS it is expedient to facilitate the raising of loans by the Commissioners for making Improvements in the Port of Calcutta in the manner contemplated by Bengal Act IV of 1880, and to further amend Bengal Act V of 1870: It is hereby enacted as follows:—

Repeal of sections of Bengal Act IV of 1880.

1. Sections 17, 18, and 19 of Bengal Act IV of 1880 are hereby repealed.

Substitution of sections for sections 7, 8, and 10 of Bengal IV of 1880.

2. For sections 7, 8, and 10 of the said Act IV of 1880, the following sections shall be substituted:

"7. In case of default of payment of any interest, the Secretary of State shall have the same remedies as may be available to other creditors of the Commissioners under this Act; but nothing in this Act shall be deemed to confer upon the said Secretary of State any prior or greater right than that conferred upon other creditors of the Commissioners under this Act.

In case of default Government how to proceed.

"8. It shall be lawful for the Commissioners, if they think fit, out of any moneys which may come into their hands under the provisions of this Act, and which can be so applied without prejudicing the security of the other creditors of the Commissioners under this Act, to repay to the said Secretary of State any sum which for the time

Power to repay before due date.

being may remain due to him under the provisions of this Act for principal, although the time fixed for the repayment of the same shall not have arrived: provided that no such repayment shall be made of any sum less than ten thousand rupees; and that if such repayment is made, the amount of interest in each succeeding half-yearly instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal."

Security for loans.

"10. In such case it shall be lawful for the Commissioners, with the sanction of the Lieutenant-Governor of Bengal, to raise a loan or loans on the security of all or any portion of the property vested in or acquired by them under this Act, other than the said reserve fund or the sinking fund provided by section 11 of this Act, and of the total aggregate amount of the proceeds of all or any of the tolls, duties, rates, and charges leviable under this Act, or on the security of all or any portion of such property or proceeds."

Form of debenture under Bengal Act IV of 1880.

3. For the schedule annexed to the said Act IV of 1880 the following schedule shall be substituted :—

"SCHEDULE (*referred to in section* 16).

FORM OF DEBENTURE.

The Commissioners for making Improvements in the Port of Calcutta.

The 18 .

No.

BY virtue of the Act, No. IV of 1880, of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations, entitled "The Calcutta Port Improvement Act Amendment Act," we, the Commissioners for making Improvements in the Port of Calcutta, in pursuance of the powers vested in us in sections 9, 10, and 12 of the above Act, and in accordance with the advertisement, dated , in consideration of the sum of Rs. paid to us by , promise to pay to the said or order the

sum of Rs. thirty years after the date hereof, together with interest thereon at the rate of • per centum per annum, payable half-yearly on the day of and the day of But if default shall be made for two consecutive half years in either the payment of the interest or making the necessary investments on account of the sinking fund, the loan shall at once become repayable.

(*Signatures of the Chairman or Vice-Chairman and two Commissioners.*)"

Substitution of section for section 20 of Bengal Act IV of 1880.

4. For section 20 of the said Act IV of 1880, the following section shall be substituted:—

"20. The Lieutenant-Governor of Bengal may, on the recommendation of the Commissioners from time to time make such by-laws consistent with this Act and with the Indian Ports Act, 1875, as he may think necessary for any of the following purposes (that is to say):—

Lieutenant-Governor empowered to make by-laws.

(*a*) for regulating, declaring, and defining the wharves, quays, stages, jetties, and piers, on and from which goods shall be landed from and shipped in vessels within the port:

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, and piers, and of landing-places, tramways, warehouses, sheds, and other works in and adjoining the same;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(*d*) for the mode of payment of tolls, charges, dues, and rates levied under this Act;

(*e*) for the removal of wrecks from the port or the river, and keeping clean the port, the river, the bank of the river, and the works of the Commissioners, and for preventing filth and rubbish being thrown therein or thereon;

(*f*) for regulating the hours during which European seamen, and apprentices shipped on the same footing as European seamen, may be employed on board ships lying in the port, or on wharves, quays, stages, jetties, and piers, in work necessitating exposure to the sun;

(*g*) for otherwise carrying out the purposes of this Act:

and may, from time to time, on the recommendation aforesaid, vary, alter, or revoke any such by-law so made by him.

Previous to the making, alteration, or revocation of any such by-law, the recommendation of the Commissioners in respect thereof shall be published for three weeks successively in the *Calcutta Gazette*."

Increase in maximum number of Commissioners.

5. In section 2 of Bengal Act V of 1870, as amended by Bengal Act VII of 1871, the words "persons in number not more than thirteen nor less than nine," shall be substituted for the words "persons in number not more than twelve nor less than nine."

New section introduced after section 100 of Bengal Act V of 1870.

6. After section 100 of Bengal Act V of 1870 the following section shall be added:—

Commissioners may be appointed Receivers of Wreck.

"100A. The Commissioners shall, if and when appointed, under the provisions of section 73 of the Indian Merchant Shipping Act, 1880, to be Receivers of Wreck within the limits of their jurisdiction, exercise within such limits all the functions of a Receiver of Wreck under the said Act.

J. H. deL.—Reg. No. 1389G—3,000—9-8-81.

ACT No. II OF 1881.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(*Received the assent of the Lieutenant-Governor on the 23rd March* 1881 *and of the Governor-General on the 19th April* 1881.)

An Act to amend "The Cess Act, 1880."

WHEREAS it is expedient to amend "The Cess Act, 1880," passed by the Lieutenant-Governor of Bengal in Council: It is hereby enacted as follows:—

Preamble.

1. In section 9 of "The Cess Act, 1880," for the figures "111" the figures "109" shall be substituted.

Amendment of section 9 of "The Cess Act, 1880."

2. In section 10, after the words "public works cess," the words "and all interest paid thereon" shall be inserted.

Amendment of section 10.

3. In section 13, after the words "in accordance with any valuation," the words "or revaluation" shall be inserted.

Amendment of section 13.

4. After section 40, the following section shall be inserted, namely:—

Introduction of new section after section 40.

"40A. Notwithstanding anything in the definitions of "estate" and "tenure" in section 4 or elsewhere in this Act contained, the Board of Revenue may direct that any land (other than the holding of a cultivating ryot) of which the rent or

Recovery of cess from tenures in Government estates.

revenue is payable directly to the Government as proprietor thereof, shall, for the purposes of this Part, be deemed to be a tenure and not an estate, and that the Government shall be deemed to be the holder of the estate within which such tenure is included, and thereupon the Collector may recover any sum payable from such tenure under the provisions of this Act, in the same manner and under the same penalties as if the same were arrears of rent or revenue due to him."

Amendment of section 42, clause (1).

5. In section 42, clause (1), for the words "for the payment of the instalments," the following shall be substituted :—"under the provisions of section 3 of Act XI of 1859, or of any similar Act at the time being in force for the payment of arrears."

Amendment of section 43.

6. In section 43, after the word "proportionately," the words "to the land revenue" shall be inserted.

In clause 3 of the same section, for the words "the last preceding section," the words "this section" shall be substituted.

Addition to section 44.

7. To section 44, the following clause shall be added :—

"(5) Whenever the separate account of the revenue payable in respect of any share or portion of an estate, as mentioned in clause 1 of this section, shall be closed, the provisions of this section shall cease to have effect in respect of such share."

Amendment of section 45.

8. In section 45, after the word "twelve," the words "and a half" shall be inserted.

Amendment of section 46.

9. In section 46, clause (3), for the words "preceding section," the words "preceding clause" shall be substituted.

Amendment of section 108.

10. In section 108, after the words "ceases under this Act," the words "not being interest levied in respect of public works cess" shall be inserted.

11. In the heading of column 3 of Part I, Schedule A, after the word "land," the words "if known" shall be inserted.

Amendment of Schedule A, Part I.

For the note which stands below Part I of the same Schedule, the following note shall be substituted:—

"NOTE.—In the body of this statement should be entered only nijjote lands and such uncultivated lands in the use and occupation of the maker of the return as are capable of assessment on their annual value."

12. In the heading of column 4 of Part II, Schedule A, after the word "occupied," the words "if known" shall be added.

Amendment of Schedule A, Part II.

13. In the heading of column 7 of the form of return in Schedule C, for the word and figure "column 5," the word and figure "column 6" shall be substituted.

Amendment of Schedule C.

J. F. S.—Reg. No. 1990G—2,000—9-5-81.

BENGAL SECRETARIAT LIBRARY

ACT No. III of 1881.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 9th April 1881, and of the Governor-General on the 10th May 1881.)

An Act to amend "The Court of Wards' Act, 1879."

WHEREAS it is expedient to amend "The Court of Wards' Act, 1879," it is enacted as follows :—

Preamble.

1. This Act shall be read and taken as part of "The Court of Wards' Act, 1879," and it shall come into force upon the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

Short title, construction and commencement of Act.

2. In section 17 of Act XI of 1859, the words from the beginning of the section down to the words "eighteen years. And" are hereby repealed.

Amendment of section 17 of Act XI of 1859.

3. For sections 16 and 17 of Bengal Act IX of 1879, the following sections shall be substituted :—

Amendment of sections 16 and 17 of Bengal Act IX of 1879.

"16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all the purposes of this Act, and may order that such expenses, inclusive of all salaries, gratuities, and payments on account of the leave allowances of such establishments, be charged against any one or more properties for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

Establishments and expenses.

Price One Anna.

"17. The Court may, in respect of such of the establishments and expenses referred to in the last preceding section as are in the judgment of the Court of a general nature, direct that they shall be met by a general contribution from the properties in charge of the Court, to be levied in such manner and in such proportion as the Court may from time to time direct. It shall be, and shall be deemed always to have been, lawful to charge against any fund to which such general contribution may from time to time be, or have been, credited, any salaries, gratuities, leave allowances, or pensions of officers and servants which the Lieutenant-Governor may order, or has already ordered, to be so charged."

General contribution for general purposes.

Charges for pensions and leave allowances.

Amendment of section 23.

4. For section 23 of the same Act the following sections shall be substituted (namely) :—

"23. *Clause 1.*—Except as hereinafter provided by section 23A, every estate, and, subject to the provisions of section 14 of Act XI of 1859, every share or part of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act VII of 1876, shall be exempt from sale for arrears of Government revenue which have accrued whilst such estate, share or part has been under the charge of the Court.

Estate under charge of Court exempt from sale.

"Provided that all such arrears of revenue shall be the first charge upon the sale proceeds of any estate, share or part which may be sold for any other cause than for such arrears of revenue.

"*Clause* 2.—If at the time when such estate, share, or part ceases to be under the charge of the Court of Wards, an arrear of revenue is due on account thereof, the Collector may attach such estate, share or part and collect the rent, cesses and other demands due, and all arrears thereof, managing such estate, share or part either directly or through

Recovery of arrears of revenue due at time when estate ceases to be under charge of Court.

a Manager, or by farming it for a period not exceeding five years, as he may think fit.

"Provided that when such estate, share or part has been attached under the provisions of this clause, the proceeds shall be paid to the Collector, and the Collector after deducting the claims of Government for revenue and other public demands, together with any interest which has accrued upon such public demands other than Government revenue, and the charges of management, due up to the date of making such deduction, shall release such estate, share or part from attachment and pay any balance of the proceeds still remaining in his hands to the proprietor of such estate, share or part or to his duly constituted agent, and shall furnish such proprietor or agent with an account of the receipts and expenditure extending over the time when such estate, share or part was under attachment.

"23A. Notwithstanding anything in clause 5, section 8, Regulation I of 1793, or in section 23 of this Act contained, any estate, share or part of an estate on which an arrear of revenue has accrued while under the charge of the Court, may at any time be sold under the provisions of the law for the time being in force for the recovery of arrears of Government revenue, if the Court has certified in writing that the interests of the ward require that such estate, share or part be so sold, and has stated in such writing the reasons upon which it has arrived at such conclusion."

Conditions under which estate may be sold for arrear of revenue accrued under Court.

5. The following sections shall be substituted for sections 48 and 49 of the same Act :—

Amendment of sections 48 and 49.

"48. All moneys received by the Manager shall be applied to the purposes hereinafter mentioned in accordance with such instructions as the Court may from time to time give in that behalf. Unless the Board of Revenue shall specially otherwise direct, priority shall be given to the purposes included under Class I over those included in Class II, and priority shall be

Application of moneys received by Manager.

given to the purposes included in Class II over those included in Class III.

"CLASS I.

"The payment of all charges necessary for the maintenance, education and religious observances of the Ward and his family,

for the management and supervision of the property of the Ward,

and the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property or any part of such property.

"CLASS II.

"The payment of all rents, cesses and other demands due to any superior landlords in respect of any land held on behalf of the Ward,

the liquidation of debts payable by the ward,

the payment of all expenses which may be necessary to protect the interests of the ward in the Civil Courts or otherwise,

the maintenance in an efficient condition of the estates, buildings and other immoveable property belonging to the ward, and

the payment of such religious, charitable, and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorize to be paid.

"CLASS III.

"The improvement of the land and property of the ward, and the benefit of the ward and his property generally.

"Provided that the amount expended for such improvement and benefit in any one year shall not exceed ten per centum of the surplus which the accounts of the previous year may show to have been available after paying or making provision for the payment of all expenses incurred up to the end of such previous year, unless, in the opinion of the Court and of the Lieutenant-

Amount to be expended on improvement.

Governor, it is desirable for the protection or in the interests of the ward or his property to expend an amount exceeding such percentage.

"49. If the ward is a female of sound mind, who has completed her age of twenty-one years, or a male who has completed his age of twenty-one years, whose property remains under the charge of the Court with his consent under section 11, no part of the surplus mentioned in the proviso to the section immediately preceding shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid.

Surplus to be made over to female and major whose property remains under the charge of the Court.

"Any portion of such surplus remaining after provision has been made for such purposes, shall be paid to such ward.

"Provided that before paying any portion of such surplus to such ward, the Court may deduct therefrom and retain at its disposal any sums which it may consider necessary to retain—

"(1) as a working balance for the management of the property and expenses incidental thereto;

"(2) in order to make provision for any special charges which are expected to become payable on account of the property, and which probably cannot be met from the expected surplus of the following years."

Amendment of section 50.

6. In section 50 of the same Act, for the word "person," the word "male" shall be substituted, and for the word and figures "section 49," the word and figures "section 48" shall be substituted.

Amendment of section 55.

7. In section 55 of the same Act, after the words "shall be brought on behalf of any ward," the words "by a Manager" shall be inserted.

Amendment of section 58.

8. To section 58 of the same Act, the following words shall be added (namely):—

"Provided that the Collector may release any person who has been so imprisoned on his furnishing sufficient security for his attendance and for the delivery of the accounts or property

required within such time as the Collector shall think fit. The Collector may at any time rescind such order of release, and direct that effect shall be given to the previous order of imprisonment."

New section introduced between sections 58 & 59.

9. The following section shall be inserted between section 58 and section 59 of the same Act :—

"58A. Any farmer holding or having held lands under the Court who, upon notice served upon him to that effect at any time during the currency of the lease or within six months after the expiry of the lease under which such lands were held or after he has relinquished such lands, omits or refuses to furnish accounts or produce documents or papers required under such notice, and shall not show sufficient cause for such omission or refusal, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission, and the Collector may impose such further daily fine as he may think proper, not exceeding twenty rupees for each day during which such farmer shall omit to furnish the accounts, documents or papers required after a date to be fixed by the Collector in a notice warning the farmer that such further daily fine will be imposed.

Penalty for neglecting to furnish accounts, &c.

"Such notice shall be served by tendering to the person to whom it may be directed a copy thereof, attested by the Collector, or by delivering such copy at the usual place of abode of such person or to some adult male member of his family; or in case it cannot be so served, by posting some copy upon such conspicuous part of the usual or last-known place of abode of such person, and in case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such a way as the Collector issuing the notice may direct, and the date fixed by such notice shall not be less than fifteen days after service thereof.

"The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed

under this section, notwithstanding that an appeal against the order imposing such fine may be pending.

"Provided that whenever the amount levied under such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by the authority of the said Commissioner."

New section substituted for repealed section 63.

10. Instead of the repealed section 63 of the same Act, the following section shall be read (namely) :—

"63. Any amount of interest which has accrued due on arrears of rent or other demand recoverable as rent payable to the Manager of an estate which is in charge of the Court, may be recovered in any manner and by any process according to which such arrears may be recovered under any law for the time being in force, and any court or officer who is competent to make an order or certificate in execution of which such arrears or other demand are recoverable, may direct that any costs incurred by the Manager in obtaining such order or certificate, and in executing the same, shall be recovered in the same manner and by the same process as if the amount thereof had been included in the said order or certificate."

Recovery of interest on arrears of rent.

New section introduced after section 65.

11. After section 65 of the same Act, the following section shall be inserted (namely) :—

"65A. Any expense incurred by the Court on account of any property under its charge may, after the release of such property, be recovered as a demand under Bengal Act VII of 1880, or any other Act at the time being in force for the recovery of public demands from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property: Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person."

Recovery of expenses incurred on account of property in charge of Court.

J. F. S.—Reg. No. 2204G.—2,000—1-6-81.

ACT No. IV of 1881.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(*Received the assent of the Lieutenant-Governor on the 9th April* 1881, *and of the Governor-General on the 23rd May* 1881.)

An Act to amend "The Bengal Excise Act, 1878."

Preamble.

WHEREAS it is expedient to amend "The Bengal Excise Act, 1878": It is enacted as follows:—

Short title, construction, and commencement of Act.

1. This Act may be called "The Bengal Excise Act Amendment Act, 1881."

It shall be read with, and taken as part of "The Bengal Excise Act, 1878," and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

Repeal of section 64 of Bengal Act VII of 1878.

2. Section 64 of "The Bengal Excise Act, 1878," is hereby repealed.

Amendment of section 4.

3. In section 4, after the definition of "exciseable article," the following shall be inserted, namely:

"Foreign exciseable article" means any exciseable article manufactured or produced at any place beyond the limits of British India, or at any place in British India in which no duty of excise is levied upon the manufacture or production of such article."

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Amendment of section 9.

4. In the last clause of section 9, for the words "and permit the manufacture of such liquors in distilleries established under section 7," the following shall be substituted :—

"Nothing in this section, or in section 7, shall be held to debar the Collector, with the sanction of the Board, from granting a license for the manufacture of spirituous liquors after native processes in a distillery established under section 7."

Introduction of new section after section 17.

5. After section 17, the following section shall be inserted, namely :—

Prohibition respecting certain foreign exciseable articles.

"17A. The Board, with the sanction of the local Government, may, from time to time, declare, by a notification published in the *Calcutta Gazette*, in respect of any foreign exciseable article, except spirituous and fermented liquors imported by sea and kept only for private use and consumption and not for sale—

"(1) that the possession of such foreign exciseable article is absolutely prohibited in any quantity whatsoever in the districts or tracts specified in the notification, or

"(2) that such possession shall be limited to specified quantities unless the Collector or other officer duly authorized in that behalf shall grant a license for the possession of a larger quantity of such article. The Board may, from time to time, if it think fit, fix the fee or duty payable for such license."

Amendment of section 19.

6. In section 19, after the words "beyond the limits of British India," shall be inserted the words "or at any place in British India in which no duty of excise is levied upon its manufacture."

7. In section 58, the words "for sale" shall be omitted, and for the last clause of the section the following words shall be substituted, namely: "shall be liable for every such offence (the provisions of section 17 notwithstanding) to a fine not exceeding five hundred rupees."

Amendment of section 58.

8. For the second clause of section 61, the following shall be substituted :—

Amendment of section 61.

"Nothing contained in the first clause of this section, or in section 17, applies to any spirituous or fermented liquors imported by sea which any person may have in his possession for his private use and consumption and not for sale."

9. After section 61, the following section shall be inserted, namely :—

Introduction of new section after section 61.

"61A. Any person who, in contravention of any notification issued under section 17A, is found in possession of any foreign exciseable article, or of a larger quantity of any such article than is permitted under such notification, shall be liable to a fine not exceeding five hundred rupees."

Penalty for being found in possession of foreign exciseable article in contravention of prohibition.

10. In the first clause of section 75, for the words "shall be liable to seizure and confiscation by an officer duly empowered in that behalf," the following shall be substituted, namely : "shall be liable to seizure by an officer duly empowered in that behalf, and to confiscation."

Amendment of section 75.

11. For section 82, the following section shall be substituted, namely :—

Amendment of section 82.

"82. The local Government may, by notification in the *Calcutta Gazette*, within any specified tract of country, exempt any exciseable article or foreign exciseable article from all or any of the provisions of this Act, and may, from time to time, by a like notification, cancel such exemption."

Power to exempt exciseable articles from provisions of Act.

J. H. del.—Reg. No. 2896G—2,000—10-6-81.

ACT No. V OF 1881.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(*Received the assent of the Lieutenant-Governor on the 30th March* 1881, *and of the Governor-General on the 5th July* 1881.)

An Act to provide for the appointment of a Burial Board in Calcutta and its Suburbs.

Preamble.

WHEREAS it is expedient to make better provision for the general management, regulation, and control of the Government burial grounds in the Town of Calcutta and its Suburbs, it is hereby enacted as follows:—

Short title and commencement of Act.

1. This Act may be called "The Calcutta Burial Board's Act, 1881," and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

Lieutenant-Governor may appoint a Burial Board.

2. The Lieutenant-Governor of Bengal may, by a notification published in the *Calcutta Gazette*, appoint a Burial Board for the Town and Suburbs of Calcutta.

Constitution of Board.

3. The Board shall be constituted as follows:—

The Chairman of the Calcutta Corporation;

The Health Officer of Calcutta;

An officer of the Public Works Department, to be appointed by the Lieutenant-Governor of Bengal;

The Senior Chaplain of St. John's Church in Calcutta;

A Clergyman of the Church of Rome, to be nominated by the Archbishop and Vicar Apostolic of Western Bengal;

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A Protestant Non-conformist Minister, to be nomiated by the Lieutenant-Governor of Bengal;

Not less than three and not more than six other members, to be nominated by the Lieutenant-Governor of Bengal.

The Lieutenant-Governor of Bengal may from time to time relieve any member of the Board nominated by him of his functions as such member.

Chairman to be appointed by Lieutenant-Governor.

4. The Chairman of the Board shall be nominated by the Lieutenant-Governor of Bengal.

Lieutenant-Governor may place Government burial grounds under the Board

5. The Lieutenant-Governor of Bengal may, by a notification published in the *Calcutta Gazette*, place under the control of the Board all or so many of the Government burial grounds (not being Military burial grounds) situate in the Town or Suburbs of Calcutta as to him shall seem fit; and the general management, regulation, and control of such burial grounds shall, subject to the provisions of this Act, be thereupon vested in and exercised by the Board.

Board to receive and account for fees and grants.

6. The Board shall receive all fees and other moneys paid or given in respect of the use of such burial grounds and the erection of monuments therein, and such grants as Government may from time to time place at their disposal, and shall pay thereout all charges and expenses incurred by them in the management of the same, and shall submit accounts of such receipts and expenditure once in every year to the Lieutenant-Governor of Bengal in such form and manner as the Lieutenant-Governor may direct.

Board may appoint subordinate establishments.

7. The Board may from time to time appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and proper to assist in carrying out the purposes of this Act, and may from time to time remove any of such persons and appoint others in their place.

Power to make rules.

8. The Board may, with the sanction of the Lieutenant-Governor of Bengal, from time to time make such rules, consistent with the purposes of this Act, as they may think necessary for any of the following purposes; that is to say:—

(*a*) For regulating the times when the Board shall meet and the procedure to be observed at such meetings;

(*b*) For securing the preservation, repair, or removal of existing monuments, and for regulating the dimensions and erection of new monuments in any burial ground under their charge;

(*c*) For regulating the mode of payment of fees, charges, and other dues in respect of interments in any such burial ground and for the expenditure of the same;

(*d*) For directing the manner in which and the persons by whom all works within any such burial ground shall be executed; and

(*e*) For otherwise carrying out the purposes of this Act;

And may from time to time, with the sanction aforesaid, vary, alter, or revoke any such rules so made. All rules so made and variations, alterations, or revocations of rules shall be published in the *Calcutta Gazette*.

Power to withdraw burial grounds from control of Board.

9. The Lieutenant-Governor of Bengal may in his discretion at any time withdraw any burial ground from the control and management of the Board.

Provision for making over private cemeteries to charge of Board.

10. It shall be lawful for the proprietors of any Christian burial ground, with the sanction of the Lieutenant-Governor of Bengal, to place the same under the management, regulation, and control of the Board on such terms and conditions as the Lieutenant-Governor may approve: and such burial ground shall thereupon be managed in all respects as a Government burial ground subject to the provisions of this Act.

J. H. deL.—Reg. No. 4045G—2,000—28-7-81.

BENGAL SECRETARIAT

ACT No. VI of 1881.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(*Received the assent of the Lieutenant-Governor on the 9th April* 1881, *and of the Governor-General on the* 13*th September* 1881).

An Act to amend "The Calcutta Municipal Consolidation Act, 1876."

Preamble.

WHEREAS it is expedient to amend Bengal Act IV of 1876; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Calcutta Municipal Consolidation Act Amendment Act, 1881."

Construction and commencement of Act.

It shall be read with and taken as part of Bengal Act IV of 1876, and it shall come into force (except as hereinafter provided) from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

Definition of "Town Council."

2. In section 3, the following shall be inserted after the definition of "The Commissioners" :—

"'Town Council' means a General Committee of the Commissioners appointed for the consideration of such matters as the Commissioners may think fit to refer to such General Committee."

Amendment of section 27.

3. To section 27, clause (1) the word and figures "and 337A" shall be added.

In clause (2) of the same section, for the word "section" the word "sections" shall be substituted.

Amendment of section 39.

4. In section 39, after the words "officers and servants," the following shall be inserted (namely) "not being pensions otherwise provided for under section 162A."

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Amendment of section 54.

5. In section 54, for the words "shall be made," the following words shall be substituted (namely) "unless made by the Commissioners in meeting other than an ordinary meeting, shall be concluded."

New section substituted for section 55.

6. For section 55, the following section shall be substituted (namely) :—

Appointment of Town Council and Special Committees.

"55. The Commissioners in meeting may, from time to time, appoint, from among the Commissioners, a Town Council and so many Committees of a special nature, consisting in each case of such number of persons as they may think fit, for the purpose of enquiring into, and reporting upon, any matter connected with the conservancy or improvement of the town, or of advising and aiding the Chairman in the discharge of any portion of his executive duties which, in the discretion of the Commissioners would be better regulated or managed with the advice and aid of such Town Council or Special Committee.

"Provided that the Chairman or Vice-Chairman shall be a member of every such Town Council or Special Committee, and that the proceedings of the Town Council and every such Special Committee shall be submitted to the Commissioners at a meeting.

"Provided also that in cases where the Chairman and the majority of the Town Council or Special Committee differ on any matter, no action shall be taken in respect of such matter until it be disposed of by the Commissioners in meeting."

Amendment of section 56.

7. In section 56, for the words "at the quarterly meeting to be held in the month of October," the words "at a Special General Meeting to be held in the month of November" shall be substituted.

Substitution of new section for section 64.

8. For section 64, the following section shall be substituted (namely) :—

Rates to be fixed at a Special General Meeting in December.

"64. At a Special General Meeting to be held in the month of December, the Commissioners shall fix the rates at which the rates and taxes hereinafter mentioned shall be imposed for the

year commencing on the first day of January then next ensuing, and the rate so fixed shall not be altered before the Special General Meeting held in the next succeeding month of December, except by a resolution passed by the Commissioners at a Special General Meeting"

Substitution of new section for section 77.

9. For section 77, the following section shall be substituted (namely) :—

"77. Whoever exercises any trade, profession, or calling without the license required by section 75 shall be liable to a fine not exceeding three times the amount payable by him in respect of such license, and unless the amount so payable shall have been paid before conviction, not being less than such amount. And such fine shall, when levied, be taken in full satisfaction of the demand on account of such license."

Penalty for exercising trade or profession without a license.

Amendment of section 79.

10. In section 79, after the word "informed," the words "by printed notice" shall be inserted.

Amendment of section 94.

11. In section 94, after the word "lighting-rates," the words "and night-soil fees" shall be inserted.

Amendment of section 95.

12. In section 95, after the word "rates," the words "or fees" shall be inserted.

Amendment of section 96.

13. In section 96, after the word "lighting-rates," the words "and night-soil fees" shall be inserted.

In the same section, after the word "rates," the words "and fees" shall be inserted.

Introduction of new section after section 103.

14. After section 103, the following section shall be inserted (namely) :—

"103A. The Commissioners may require the occupier of any house or land to furnish them with the name and address of the owner of such house or land, and such name and address when so received shall be duly entered in the 'assessment book' kept under section 108.

Occupier of house or land may be required to furnish name of owner.

"If the occupier of any house or land shall refuse or neglect to furnish the information so required of him, he shall be liable to pay the rates payable by the owner on account of such house or land, and on non-payment thereof, the Commissioners may recover the same by distress and sale of any moveable property found in the house or on the land.

On failure, occupier liable to owner's rates.

"Provided that no arrear of rate which has remained due from the owner of any house or land, for more than one year, shall be so recovered from the occupier thereof."

Introduction of new section after section 160.

15. After section 160, the following section shall be inserted (namely) :—

"160A. The local Government may determine what portion, if any, of the environs of the town shall be included in the said system of water-supply, and may declare the boundaries thereof in the *Calcutta Gazette*, and for the purposes of the water-supply, the land within such boundaries, as aforesaid, shall be deemed to be part of the Town.

Extension of water-supply to the suburbs, and levy of water-rate therein.

"Provided that the Commissioners may, with the sanction of the local Government, assess a separate and distinct water-rate upon any such portion of the environs, not being more than the maximum rate leviable under this Act. The Commissioners may require the Commissioners of any Suburban Municipality to arrange for the assessment and collection of the water-rate within any tract belonging to such Municipality, and in that case the Suburban Commissioners shall have all the powers of the Commissioners for the purposes of such assessment and collection."

Introduction of new section after section 162.

16. After section 162, the following section shall be inserted (namely) :—

"162A. The Police budget may, if the local Government, with the previous sanction of the Governor-General in Council, shall so direct, include a charge for pensions payable under the orders and rules of Government to all officers and servants on whose behalf provision for the payment of salary has ordinarily been made in such budget, and

Contributions towards pensions of officers and servants mentioned in Police Budget.

who may retire from service after the commencement of this Act; such charge shall be payable by the Commissioners, but shall not exceed three-fourths of the total of such pensions.

"Provided always that the salary of the Commissioner of Police, one-third of the salary of the Deputy Commissioner of Police, and the salaries of all officers and servants who, being members of the Police force, are not entitled to the benefit of the Uncovenanted Service Pension Rules, shall not be taken as qualifying for pensions chargeable to the Commissioners under this section."

Introduction of new section after section 242.

17. After section 242, the following section shall be inserted (namely) :—

"242A. All fees which shall be payable under any license granted under the last preceding section, shall be recoverable from the persons liable to pay the same, as if the amounts payable in respect thereof were rates due to the Commissioners from such persons, under the provisions of Chapter VI."

Mode of recovering fees.

Amendment of section 244.

18. In section 244, clause 2, after the words "said fees," the following words shall be inserted :—

"shall be payable in advance on the first of April, the first of July, the first of October, and the first of January for the current quarter, and."

Amendment of section 257.

19. In section 257, for the words "being within any private enclosure," the words "whether within any private enclosure or not" shall be substituted.

Amendment of section 277.

20. In section 277, after the words "Commissioners may" the words "within fourteen days of the receipt of such notice by them" shall be inserted.

Introduction of new section after section 283.

21. After section 283, the following section shall be inserted (namely) :—

"283A. Notwithstanding anything in the three sections immediately preceding contained, the Commissioners, upon receipt of the report prescribed under section 280, may, at a

Power to purchase, improve, and re-sell or lease unhealthy areas.

meeting other than an ordinary meeting, pass a resolution to the effect that the land upon which the block of huts mentioned in such report is situate, is an unhealthy area, and that, in the opinion of the Commissioners, the acquisition of the land, either by purchase or lease, is necessary for the purpose of making the requisite improvements thereon, and shall proceed to make a scheme for the improvement of such land, and shall forward such scheme, accompanied by such plans and particulars as shall be necessary for a due understanding of the same, together with a copy of such resolution, for the consideration and sanction of the local Government.

"The Commissioners in meeting, other than an ordinary meeting, may, with the sanction of the local Government, acquire such land or any part thereof by purchase or lease, and for the purposes of such acquisition the provisions contained in Chapter XIV, Part II, shall apply.

"When the sanction of the local Government has been accorded to any scheme for the improvement of any land acquired by the Commissioners as above provided, the Commissioners, at a meeting other than an ordinary meeting, may sell or let any part of the acquired land to any person for the purpose and under the condition that he will, as respects the lands so purchased by or leased to him, carry out such scheme, and in particular they may insert, in any grant or lease of any part of the land which may be intended for building sites, provisions binding the grantee or lessee to build thereon, in such manner and within such period of time, as in the grant or lease prescribed, and to make provision for the sanitation and conservancy of the land and the dwellings built thereon to the satisfaction of the Commissioners.

"The Commissioners may, instead of selling or letting the land acquired by them as aforesaid, engage with any person to carry out the whole or any part of any duly sanctioned scheme of improvement upon such terms as the Commissioners may think expedient, or may themselves undertake to carry out such scheme.

"All expenditure incurred by the Commissioners under this section, in connection with the preparation of any scheme of improvement, the acquisition by purchase or lease of any lands for the purposes of any such duly sanctioned scheme, or the carrying out of any such scheme, shall be deemed to be expenditure to which the Municipal Funds are applicable under section 26.

"For the purchase of any land acquired under this section, and the blocks of huts or other buildings standing thereon, and for otherwise carrying out any duly sanctioned scheme for the improvement of any such land, the Commissioners in meeting, other than an ordinary meeting, may, with the sanction of the local Government, from time to time, borrow on the security of the rates, taxes, and dues imposed and levied on account of the Municipal Fund, or a portion of them, and at such rate of interest, and upon such terms as to the time of repayment and otherwise as the local Government may approve, any sums of money the Commissioners may require for the objects aforesaid.

"The Commissioners shall be bound to sell or lease such land in the manner aforesaid, or themselves to carry out such sanctioned scheme of improvement as is above described within the term of two years from the date of their purchase or lease of such land, unless the local Government shall specially extend such term. But it shall not be lawful for the Commissioners, without the special sanction of the local Government, to keep in their own possession any land purchased or leased by them under this section for more than five years from the date of the completion of its reclamation and improvement under the provisions of this section, or for more than seven years from the date of its purchase or lease by them."

Amendment of section 292.

22. In section 292, for the words "market, building, shop, stall, or place used for the sale," the words "market, building, shop, stall, boat, vessel, wharf, godown, or other place used for the storage or sale" shall be substituted.

Amendment of section 295.

23 For section 295, the following section shall be substituted (namely) :—

Registry of shops for sale of drugs recognized by British Pharmacopœia.

"295. (1) No shop or place shall be kept for the retail sale of drugs recognized by the British Pharmacopœia, not being also articles of ordinary domestic consumption, unless the same shall have been registered in the office of the Commissioners. Any keeper of such shop or place failing to register the same within two months of the passing of this Act, or within two months from the date of the establishment of such place, shall be liable to a fine not exceeding one hundred rupees. The Commissioners shall, upon registration, grant the keeper of such shop or place a license, which he shall be bound to display in some conspicuous part of his premises.

"(2) No person shall compound, mix, prepare, dispense, or sell, any drug in any such registered shop or place unless he be duly certified as a fit person to be entrusted with such duties under rules to be hereafter made for that purpose by the local Government.

"(3) Any person not being a holder of such certificate, who shall compound, mix, prepare, or sell any drugs in any such registered shop or place, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees for each offence, and any owner, occupier or keeper of any such shop or place who shall employ any such uncertified person to perform any one or more of such duties, shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and shall be further liable, at the discretion of such Magistrate, to forfeit his license.

"Provided that the provisions contained in clauses (2) and (3) of this section shall not come into operation until after the expiration of a period of six months from the publication of a Notification to that effect in the *Calcutta Gazette* by the local Government.

"Nothing in this section contained shall be construed to apply

to the sale of drugs used by practitioners of indigenous medicines, whether these are recognised by the British Pharmacopœia or not, when such drugs are not sold in a shop or place where medicines recognized by such Pharmacopœia are dispensed upon prescription."

Amendment of section 296.

24. For the first clause of section 296, the following clause shall be substituted (namely):—

"The Commissioners, or any person authorized by them in that behalf, may, at all reasonable times, enter into and inspect any place kept for the sale of drugs, or in which drugs are sold, and if they have reason to suspect that any drug in the said place is adulterated, or by reason of age, or the effect of climate, has become inert or unwholesome, or has otherwise become deteriorated in such a manner as to lessen its efficacy, to change its operation or to render it noxious, may remove the same on giving a receipt specifying the nature and quantity of the drug removed and its approximate value; and if it appear to a Justice of the Peace that the said drug removed as aforesaid is adulterated, or has become inert, unwholesome, or deteriorated as aforesaid, he may order the same to be destroyed or to be so disposed of as to him may seem fit. If it shall appear to the said Justice that the drug so removed is not adulterated or has not become inert, unwholesome, or deteriorated as aforesaid, the person from whose shop or place it has been taken shall be entitled to have it restored to him, and it shall be in the discretion of the said Justice to award him such compensation, not exceeding the actual loss which has been sustained, as such Justice may think proper."

Inspection of drugs.

Compensation if drug be not adulterated, &c.

Amendment of section 297.

25 To section 297, the following words shall be added:—

"and the owner or occupier of any such place, who shall omit to register the same, shall be liable to a fine not exceeding one hundred rupees."

Introduction of new section after section 310.

26. After section 310, the following section shall be inserted (namely) :—

Power to license fuel shops at burning grounds.

"310A. The Commissioners shall, from time to time, grant licenses to persons applying for such, for the sale, at burning grounds, of fuel and other articles used for the cremation of dead bodies, and shall in meeting, other than an ordinary meeting, prescribe a scale of rates for the sale of such articles; and any person not so licensed who shall, within three hundred yards of any such burning ground, sell or offer for sale any such fuel or other articles, shall be liable to a fine not exceeding fifty rupees.

"The Commissioners may, on good and sufficient cause, revoke or withdraw any such license they may think fit, and any person to whom any such license is granted, who shall charge for the sale of any such article any higher rate than the rate fixed for such article in such scale, shall, at the discretion of the Commissioners, be liable to have his license cancelled, and shall also be liable to a fine not exceeding ten rupees.

"The Commissioners shall not be bound to grant a fresh license to any person whose license may have been revoked, withdrawn, or cancelled, under the provisions of this section."

Amendment of section 337.

27. In the penultimate clause of section 337, for the words "and all moneys and securities now held by any Trustees for the Commissioners, for the purpose of paying off any sum borrowed by them, shall be held by them upon the trusts hereinbefore declared," the following words shall be substituted and be deemed to have been always the words of the Act :—

"and all moneys and securities now held by any Trustees for the Commissioners, for the purpose of paying off any sums borrowed by them, not being sums borrowed from the Secretary of State for India in Council, shall be held by them upon the trusts hereinbefore declared."

Introduction of new section after section 337

28. After section 337, the following section shall be inserted (namely) :—

Provision as to repayment of certain future loans.

"337A. The Commissioners, after providing for all payments directed under section 337, and for any stipulated payments to any sinking or reserve fund held by them or their Trustees against sums borrowed under section 334, shall set aside yearly, out of their annual income, in respect of all sums borrowed by them after the 1st day of April 1881 for the purpose of carrying out or extending the water-supply and drainage schemes, a sum of not less than one per cent. on the net amount of all such loans outstanding on the first day of January of each year : that is to say, a sum of not less than one per cent. on the total amount of such loans, after deducting therefrom the total sum accruing from such one per cent reservations during the year preceding such first day of January, and shall appropriate the said sum of one per cent, so far as it is required or will extend, to repay the amounts, if any, of such loans, as shall fall due in the course of the year.

"And they shall invest the surplus (if any) of the said sum, after repayment as aforesaid ; or in case there has not been any amount due or paid in respect of such loans during the year, then they shall invest the whole of the said sum in Government securities or in any securities guaranteed by Government, or in Calcutta Municipal debentures, in the names of the Secretary to the Government of Bengal in the Revenue Department and the Accountant-General of Bengal, respectively, for the time being to be by them held in a separate account as Trustees for the purpose of repaying at due date, from time to time, the loans contracted by the Commissioners for the purposes aforementioned after the said first day of April 1881."

Amendment of section 339

29. In section 339, for the words "under section 337," the words "under section 337, or section 337A, respectively" shall be substituted.

Amendment of section 374.

30. For the first clause of section 374, the following shall be substituted (namely) :—

Certain provisions of Act may be extended.

"If the local Government shall have determined that any portion of the environs of the town shall be included in the system of sewerage and drainage, or in the water-supply authorized by this Act, and if the local Government shall have declared the boundaries thereof by notification in the *Calcutta Gazette*, then, in respect of such extension of such system of sewerage and drainage, sections two hundred and fifteen to two hundred and thirty-four, both inclusive, and in respect of such extension of such water-supply, sections one hundred and twenty-nine to one hundred and sixty, both inclusive, shall have effect within the boundaries so declared."

Amendment of schedule 4.

31. In the fourth schedule, for the words "(Signature of the Chairman, Vice-Chairman, or Secretary)," the words "(Signature of the Chairman, Vice-Chairman, Secretary, or Assessor)" shall be substituted.

H. M.—Reg. No. 6625G—2,800—28-9-81.

BENGAL SECRETARIAT LIBRARY

ACT No. I of 1882.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL

(Received the assent of the Lieutenant-Governor on the 20th February 1882 and of the Governor-General on the 15th March 1882.)

An Act further to amend the Calcutta Municipal Consolidation Act, 1876.

Preamble.

WHEREAS it is expedient further to amend Bengal Act IV of 1876; It is hereby enacted as follows:—

Construction and commencement of Act.

1. This Act shall be read with, and taken as part of, Bengal Act IV of 1876, as amended by Bengal Act VI of 1881, and it shall come into force on the first day of April 1882.

Definition of "year."

2. In section 3, Bengal Act IV of 1876, after the definition of "The Town," the following shall be inserted, namely:—

"Year" means a year beginning on the first day of April.

Substitution of certain months for others.

3 In Bengal Act IV of 1876, as amended by Bengal Act VI of 1881, for the words "January," "April," "July," "September," "October," "November," and "December," in each of the places where they occur, the words "April," "July," "October," "December," "January," "February," and "March" shall be substituted respectively:

Provided that the Local Government, upon application made by the Commissioners in accordance with a resolution to that effect passed at a special general meeting, may, by a notification in the *Calcutta Gazette*, substitute any other dates for all or any of the dates specified in Bengal Act IV of 1876, as amended by Bengal Act VI of 1881 and this Act.

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4. All holders of yearly or half-yearly licenses in force on the said first day of April 1882 shall, in addition to the sum already paid in respect of such licenses, pay, on the expiry of the same, in the case of yearly licenses, the sum of twenty-five per centum, and in the case of half-yearly licenses, the sum of fifty per centum, calculated upon the full amount chargeable upon such licenses respectively, and upon such payment being made, every such yearly license and half-yearly license shall continue and remain in force until the 31st day of March and the 30th day of September next following respectively :

Additional fee payable in respect of existing licenses.

Provided that the Commissioners may remit the whole of such additional sum or any such portion thereof as they may think fit.

5. Any person who, being required by law to take out a yearly or half-yearly license at any time within a period of three months immediately preceding the said first day of April 1882, shall have omitted to take out such license, shall, in addition to the amount payable in respect of a license taken out after such period, be liable to pay in respect of a yearly license a sum of twenty-five per centum, and in respect of a half-yearly license, a sum of fifty per centum, calculated upon the full amount payable in respect of such licenses respectively :

Additional fee for licenses omitted to be taken out before commencement of Act.

Provided that the Commissioners may remit the whole of such additional sum or any such portion thereof as they may think fit.

6. Whoever neglects or refuses to pay the additional sum required under the two last preceding sections shall be liable to a fine not exceeding three times the amount payable by him exclusive of the amount so payable.

Penalty.

7. The provisions of sections 4, 5, and 6 of this Act regarding half-yearly licenses shall apply *mutatis mutandis* to the fees payable in respect of the registration of carts under section 85 of Bengal Act IV of 1876.

The foregoing sections made applicable to registration of carts.

J. E. S.—Reg. No. 1512SG—3,000—24-3-82.

Act No. II of 1882.

Passed by the Lieutenant-Governor of Bengal in Council.

(*Received the assent of the Lieutenant-Governor on the 15th April 1882, and of the Governor-General on the 9th June 1882.*)

An Act to amend the law relating to Embankments and Water-courses.

Preamble.

Whereas it is expedient to make better provision for the construction, maintenance, and management of embankments and water-courses in the territories subject to the Lieutenant-Governor of Bengal: It is enacted as follows:—

PART I.

Preliminary.

Short title.

1. This Act may be called "The Bengal Embankment Act, 1882."

Local extent.

It extends to the whole of the territories subject to the Lieutenant-Governor of Bengal, except the Sunderbuns, as defined under the provisions of clause 2, section 13, Regulation III of 1828, and the province of Orissa, save as otherwise expressly provided in Part IX.

Commencement.

And it shall come into force from the day on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

Repeal of former Acts.

2. From such day Bengal Act VI of 1873 (*to amend the law relating to embankments and water-courses*), with the exception of the sections set out

and schedules specified in schedule I to this Act annexed, shall be repealed.

The references in the said sections, which are mentioned in schedule II to this Act annexed, shall be read as if the references were made to the portions of this Act mentioned against such references respectively in the third column of such schedule.

Sections 80 and 81 of this Act shall be applicable respectively to the proclamation and notice mentioned in sections 26 and 28, Bengal Act VI of 1873.

Interpretation.

3. The following words shall, for the purposes of this Act, have the meanings hereby declared, save where, from the context, a contrary intention appears :—

"Collector."

"Collector" means any Revenue Officer in independent charge of a district or portion of a district, or specially appointed by the Lieutenant-Governor of Bengal to perform the functions of a Collector under this Act.

"District."

"District" means the local area throughout which a Collector is authorized to exercise his ordinary functions.

"Embankment."

"Embankment" includes

every bank, dam, wall and dyke, made or used for excluding water from, or for retaining water upon, any land;

every sluice, spur, groyne, training wall, or other work annexed to, or portion of, any such embankment;

every bank, dam, dyke, wall, groyne, or spur, made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves, or waters;

and also all buildings intended for purposes of inspection and supervision.

"Estate."

"Estate" means any land or share in land included under one entry on the general register of revenue-paying lands and of revenue-free land

prepared and maintained by the Collector of a district under the Land Registration Act, 1876, or any similar law for the time being in force.

"Land." "Land" includes interests in land and benefits arising out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.

"Public embankment." "Public embankment" means an embankment maintained by the officers of Government.

"Public water-course." "Public water-course" means a water-course under the charge of the officers of Government.

"Section." "Section" means a section of this Act.

"Tenure." "Tenure" includes all interests in land which are held permanently at a fixed rental, or which are held rent-free, other than estates as above defined.

"The Engineer." "The Engineer" means the Engineer in charge of the public embankments of the district, or any part thereof, or any Engineer specially appointed by the Lieutenant-Governor of Bengal to perform the functions of an Engineer under this Act in respect of any tract of country or of any works.

"Water-course." "Water-course" includes a line of drainage, weir, culvert, pipe, or other channel, whether natural or artificial, for the passage of water.

"Zemindar." "Zemindar" means all or any of the holders of an estate; and where two or more zemindars are jointly holders thereof, they shall be jointly and severally liable under this Act.

Explanation.—For the purposes of Part VI the Government shall be deemed to be the zemindar—

(*a*) of every estate of which the zemindari title is not vested elsewhere than in the Government.

(*b*) of every estate which is let in farm or held khas under the provisions of section 43 of Regulation VIII of 1793, in consequence of the proprietor refusing or omitting to engage for the settlement thereof.

Public embankments, &c., to vest in Government.

4. Every public embankment and every public water-course, and all land, earth, pathways, gates, bermes, and hedges belonging to, or forming part of, or standing on, any such embankment or water-course, and every embanked tow-path maintained by Government, shall vest in the Government. The embankments mentioned in schedule D annexed to Bengal Act VI of 1873, and every embankment and water-course which may be included in such schedule under section 43 of this Act, and every embanked tow-path as aforesaid, shall be held on behalf of the Government; and all other public embankments and water-courses shall be held by Government on behalf of the persons interested in the lands to be protected or benefited by such embankments or water-courses, subject to the provisions of section 87; and all moneys received on account of such lands shall be credited to the cost of the construction and maintenance of such embankments and water-courses respectively.

Survey of lands hitherto used for obtaining earth for repairs.

5. All plots or parcels of land which, before the commencement of this Act, have been used for the purpose of obtaining earth or other materials for the repair of any public embankment, water-course, or embanked tow-path as aforesaid, or which by agreement have been substituted for such lands, shall be deemed to be at the disposal of the Government for such purpose, without payment of compensation for the use or removal of such earth or other materials.

The Collector may cause all such plots or parcels to be ascertained, surveyed, and demarcated.

Notification.

6. The Lieutenant-Governor may from time to time, by a notification in the *Calcutta Gazette*, declare the limits of any tract within which the provisions of clause (*b*), section 76, shall take effect;

and the said provisions shall take effect one month after the publication of such notification.

As soon as possible after the said publication, the Collector shall cause a translation of the notification in the vernacular to be published in the manner prescribed in section 80.

PART II.

Powers of Collector and procedure thereon; Embankment Committees.

Powers of Collector.

7. Subject to the provisions of Part III, whenever it shall appear to the Collector that any of the following acts should be done, or works executed, that is to say:

Taking charge of embankment by Government.

(1) That any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or that any embankment or water-course which is necessary for the protection or drainage of the neighbouring country, should be taken charge of and maintained by the officers of Government;

Removal of embankment or obstruction.

(2) That any embankment, or any obstruction of any kind, which endangers the stability of a public embankment or the safety of any town or village, or which is likely to cause loss of property by interfering with the general drainage or the flood drainage of any tract of land, should be removed or altered;

Changing line of embankment.

(3) That the line of any public embankment should be changed or lengthened, or that any public embankment should be renewed, or that a new embankment should be constructed instead of any public embankment, or that any embankment should be constructed for the protection of any lands or for the improvement of any water-course, or that a sluice in any public embankment should be made:

(4) That any sluice or water-course should be made, or that any public water-course should be altered for the improvement of the public health, or for the protection of any village or cultivable land;

Improvement of drainage.

(5) That any road which interferes with the drainage of any tract of land should be altered, or that any water-course under or through such road should be constructed

Alteration of roads and construction of water-courses.

he shall cause to be prepared estimates of the cost of such works, including such proportion of the establishment charges as may be chargeable to the works in accordance with the rules for the time being in force under this Act, or as may be specially ordered by the Lieutenant-Governor, together with such plans and specifications of the same as may be required. He shall also cause to be prepared from the survey map of the district a map showing the boundaries of the lands likely to be affected by the said acts and works, and he shall cause a general notice to be given of his intention to cause such works to be executed.

8. Such general notice shall as far as possible be in the form, and state the particulars mentioned in schedule III to this Act annexed; and to it shall be annexed a list of all estates and villages, as far as is known, which are likely to be affected by the proposed work, and to be chargeable in respect of the expenses of executing the same; and a copy of the said estimates, specifications, and plans, together with a copy of the map as aforesaid, shall be deposited in the office of the Collector, and shall be open to the inspection of any persons interested, who shall be allowed to take copies thereof.

Form of notice.

9. Every such general notice shall be published in the manner provided by section 80 not less than thirty days before the day appointed for hearing the persons interested.

Proclamation to be published for thirty days.

10. The Collector shall, on the day appointed for the hearing, or on any subsequent day to which the hearing may be adjourned, hold an enquiry

Hearing of objections to works.

and hear the objections of any persons who may appear, recording such evidence as he may deem necessary.

Order after enquiry.

11. After holding such enquiry the Collector shall proceed as follows, that is to say—

(*a*) If he considers that the proposed act or work, or any modification of the same, should not be done or executed, he shall record his opinion to that effect.

(*b*) If he considers that the proposed act or work, or any modification of it, should be done or executed, he shall submit a report to the Commissioner of the Division.

Order of Commissioner.

12. On receipt of a report submitted under section 11, the Commissioner, after making any further enquiry which he may deem necessary, may record an order refusing to support the proposal made in the report of such Collector for the execution of such work;

or may forward the report submitted by such Collector, together with any remarks he may think proper, for the consideration of the Board of Revenue.

Order of Board.

13. On receipt of the report forwarded by the Commissioner, the Board of Revenue, after making any further enquiry which they may deem necessary, may record an order refusing to support the proposal made in the report of such Collector or Commissioner,

or may submit such report, together with any remarks which may be thought proper, for the consideration of the Lieutenant-Governor.

Order of Lieutenant-Governor.

14. On receipt of such report from the Board the Lieutenant-Governor shall proceed to consider the same, and may order that the proposed act or the proposed work, or any modification thereof, be done or executed. Every such order shall be notified in the *Calcutta Gazette*.

Special powers which may be conferred by Lieutenant-Governor.

15. Notwithstanding anything contained in this Part, the Lieutenant-Governor may, by a special order passed in respect of any act or work specified in section 7, or by a general order in

respect of any class of such acts or works, authorize the Collector, after holding such enquiry as is prescribed in section 10, without previous reference to any superior authority, to pass an order that such act or work or any modification thereof may be done or executed; or the Lieutenant-Governor may authorise the Commissioner or the Board of Revenue to pass such order without previous reference to any superior authority:

Provided that every order passed under the authorization of the Lieutenant-Governor, given under this section, shall be subject to the provisions of section 85.

Alteration of railroads and construction of water-courses.

16. The Collector may make an order requiring that any railroad which interferes with the drainage of any tract of land be altered, or that any water-course under or through such railroad be constructed.

Procedure of Collector.

17. Whenever an order shall have been passed in cases falling under section 7, clause (5,) ~~or under the section~~ last preceding, directing that any road ~~or railroad~~ which interferes with the drainage of any tract of land be altered, or that any water-course be constructed under or through such road ~~or railroad~~, the Collector may require the person in charge of such road ~~or railroad~~ to make such alteration or construct such water-course, and in the event of such person failing to comply with such requisition in such manner and within such time as the Collector shall prescribe, the Collector may cause the road ~~or railroad~~ to be altered or the water-course to be constructed by the officers of Government; provided that in the case of a railroad no such work shall be undertaken by the officers of Government without the permission of the Lieutenant-Governor previously obtained.

Expenses of alteration or construction.

The expenses of such alteration or construction shall be borne by the person in charge of the said road or railroad, so far as the same shall have been incurred on account of insufficient provision having been made at the time of the construction of the said road or railroad for the natural drainage then existing, and the remainder of the expense,

if any, shall be charged upon, and recovered from, the proprietors of the lands benefited in accordance with the provisions of this Act. If any dispute arises as to the apportionment of expenses under this clause between the person in charge of a road or railroad and the proprietors of the lands benefited, the dispute shall be decided by the Lieutenant-Governor, whose decision shall be final.

Application for new sluices, embankments, or drainage.

18. (*a*) If any person desires that a sluice be made in any public embankment for the purpose of drainage or irrigation,

(*b*) or if, within any tract of country which has been included within a notification under section 6, any person desires that any new embankment be erected, that any existing embankment be lengthened, enlarged, repaired, or removed, or that the line of any embankment be altered, or that any new water-course be made, or that any water-course be obstructed or diverted,

he may make an application in writing to the Collector. The application shall contain such particulars of the land likely to be affected by the work as may enable the Collector to judge of the advantage which may be derived from the project. If it should appear to the Collector that the work applied for is one which may probably be executed with advantage, the procedure mentioned in the seventh and following sections of this Act shall be followed in respect of the proposed work.

Power to remove houses, &c.

19. Whenever the Collector, after considering any report of the Engineer or otherwise, shall be of opinion that the removal of any trees, houses, huts, or other buildings, situated between a public embankment and the river, is necessary, or that land is required for widening an existing embanked tow-path, or for constructing a new embanked tow-path, he shall make a report to that effect to the Commissioner, accompanied by a detailed statement of the trees, houses, huts, or other buildings to be removed, or of the land required. Such report shall be submitted in the usual manner through the Board

of Revenue to the Lieutenant-Governor, in order that proceedings may be taken for obtaining possession of such trees, houses, huts, and buildings, or land in accordance with the provisions of the Land Acquisition Act, X of 1870, or other law for the time being in force for the acquisition of land for public purposes.

Authority to take proceedings where lands likely to be affected by the works are in different districts.

20. If any works proposed to be undertaken in accordance with this Act, or the lands which are likely to be affected by such works, are situated within the limits of different districts, the Collector of any district within which any portion of such works or lands is situated may apply to the Commissioner of the Division for authority to proceed in such matter; and the Commissioner of the Division, with the concurrence of any other Commissioner within whose Division any such lands are situated, may give authority to such Collector, or to any other Collector within whose district any portion of such lands is situated, to carry out all or any proceedings under this Act in respect of all the lands affected by such works.

Lieutenant-Governor may appoint Embankment Committee.

21. The Lieutenant-Governor may, if he think fit, appoint an Embankment Committee for any district, and may from time to time appoint and accept the resignation of the members of such Committee, and direct that any person shall cease to be a member thereof.

Consultation of Committee by Collector.

22. The Lieutenant-Governor may from time to time direct that any such Committee shall be consulted by the Collector in the discharge of any function or the performance of any duty imposed on him by this Act; and by a notification published in the *Calcutta Gazette* may from time to time direct that any such function or duty shall be performed or discharged by such Committee.

Business of Committee.

23. The business of every such Committee shall be conducted under such rules as the Lieutenant-Governor may from time to time make in that behalf.

Reference to Commissioner.

24. Whenever, in any matter on which the Lieutenant-Governor has directed that the Collector shall consult the Committee, the Collector may differ from the Committee, he shall, if so required by the Committee, submit the question to the Commissioner of the Division for decision, with copies of any remarks which may have been recorded by the Committee or any members thereof.

PART III.

Procedure in cases of imminent danger to life or property.

Proceedings in emergencies.

25. Whenever the Collector shall be of opinion that the delay in the execution of any work, occasioned by proceedings commenced by a general notice under the seventh and following sections of this Act, would be attended with grave and imminent danger to life or property, he may forthwith cause the execution of such work to be begun in anticipation of the completion of such proceedings: Provided that he shall without delay cause to be prepared the estimates, specifications, and plans of the proposed works, together with a copy of the map as provided in section 7, and shall cause general notice to be given that the work mentioned therein has already been commenced, and thereupon such proceedings and enquiries shall be had as in and by Part II of this Act are directed.

Restoration of embankments, &c.

26. Whenever it may have been determined in the final order to be passed on any such enquiry that anything done by the Collector or by the Engineer under the last preceding section was unnecessary, any person who shall have sustained damage by the execution of such works shall receive compensation from the Government to be assessed according to the provisions contained in Part V of this Act, and on receipt of any application to that effect by the Collector from any such person affected, the land or the embankments or drainage shall, so far as any alteration thereof shall appear to have been unnecessary, be, at the expense of the Government, restored as nearly as possible to the state in which

they were when the Collector commenced to act under the provisions of this Part.

Authority to take proceedings where lands in different districts.

27. If any portion of the land likely to be affected by any work to be undertaken under this Part lies within another district, the Collector who causes the work to be executed, shall, when commencing upon it, give notice of the same to the Collector of such other district; and the provisions of section 20 shall be applicable to all proceedings connected with the work and the cost thereof.

PART IV.

Powers of the Engineer.

Engineer subject to control of Collector.

28. The powers conferred on the Engineer under this Act shall be exercised subject to the general control and orders of the Collector.

Power to Engineer to act in urgent cases.

29. In cases in which the Engineer may be of opinion that delay for the purpose of obtaining the orders of the Collector would be attended with grave and imminent danger to life or property, the Engineer may exercise the powers conferred on the Collector by section 25. The Engineer shall forthwith report to the Collector any action taken by him under this section, and shall be guided by any instructions which he may receive from the Collector in respect thereof.

Power to make repairs.

30. The Engineer may make any repairs in, and may do all acts necessary and proper for the maintenance of, any public embankment, public water-course, or any other work executed or taken charge of under the provisions of this Act or of any previous similar Act.

Power to make temporary roadway, water-course, or dam.

31. Whenever any person desires that a temporary roadway should be made over, or that a temporary water-course should be made through, any public embankment, or that a temporary

dam should be constructed in any embanked river or public water-course, he shall apply to the Engineer, or to any person who has been appointed in that behalf by the Engineer. • Such Engineer or person shall communicate the application with his opinion to the Collector, and shall await the Collector's order in respect thereof, unless he thinks that there is special reason for the immediate execution of the work, in which case he may execute the same without waiting for the orders of the Collector. If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall deposit the amount estimated by the Engineer to be necessary to defray the expenses of, and incidental to, making and removing such roadway, or of, and incidental to, making, closing, or removing such water-course or dam. If the amount deposited is found afterwards to exceed the amount required, such excess shall be returned to the said applicant.

Sluices to be opened or shut under authority of the Engineer.

32. Sluices constructed in any public embankment shall be opened or shut only by or with the general or special permission of the Engineer or of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Engineer.

Power to enter and survey land, &c.

33. It shall be lawful for the Engineer, or any person whom he may authorize in that behalf, in order to carry out any of the purposes of this Act,

to enter upon, and survey, and take levels of any land;

to dig or bore into the subsoil;

to do all other acts necessary to ascertain whether the land is adapted to the purpose projected by such Engineer or by the Collector;

to set out the boundaries of the land proposed to be taken, and the intended line of the work proposed to be made thereon;

Power to mark out line.

to mark such levels, boundaries, and line, by placing marks and cutting trenches;

and, where otherwise the survey cannot be completed or the levels taken, to cut down and clear away any part of any standing crop, fence, or jungle:

Power to clear land.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Previous notice of entry.

The Engineer or other person so authorized shall at the time of such entry tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Payment for damage.

34. Whenever it is deemed requisite to repair any embankment or water-course, or embanked tow-path maintained by Government, it shall be lawful for the Engineer, or any person authorized in that behalf, to enter in and upon the lands mentioned in section 5, and take possession of, appropriate, and remove any earth or other material therefrom, and use the same for the purposes of such repairs.

Power to take earth from lands.

35. The Collector shall proceed in respect of any crops standing on such land as provided in section 13, Bengal Act VI of 1878; and the provisions of that section shall be applicable to claims for the payment of compensation for damage done to such crops.

Procedure where crops on such lands.

36. When any such land is rendered permanently unfit for cultivation by any such act as aforesaid, the local Government shall, upon application for that purpose made by the owner thereof, acquire such lands under the provisions of the Land Acquisition Act, 1870, or other law for the time being in force for the acquisition of land for public purposes.

Acquisition of land made permanently unfit for cultivation.

PART V.

Acquisition of lands and compensation.

Acquisition of land.

37. Whenever, in the course of proceedings under this Act, save in those cases in which the Collector has proceeded under the provisions of sections 12 and 13, Bengal Act VI of 1873, it appears that land is required for any of the purposes thereof, proceedings shall be forthwith taken for the acquisition of such land in accordance with the provisions of the Land Acquisition Act, X of 1870, or other law for the time being in force for the acquisition of lands for public purposes.

Compensation for consequential damage.

38. Subject to the provisions of section 5, whenever any land other than land required or taken by the Engineer, or any right of fishery, right of drainage, right of the use of water, or other right or property, shall have been injuriously affected by any act done or any work executed under the due exercise of the powers or provisions of this Act, the person in whom such property or right is vested may prefer a claim by petition to the Collector for compensation :

Provided that the refusal to execute any work for which application is made, and the refusal of permission to execute any work for the execution of which the permission of the Collector or any other authority is required under this Act, shall not be deemed acts on account of which a claim for compensation can be preferred under this section.

Limitation to claim for compensation.

39. No claim under the last preceding section shall be entertained which shall be made later than two years next after the completion of the work by which such right is injuriously affected.

Procedure for determining compensation.

40. When any such claim is made, proceedings shall be taken in view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable, as far as possible in accordance with the provisions of the

Land Acquisition Act, X of 1870, or other law for the time being in force for the acquisition of land for public purposes.

41. In any such case which is referred to the Judge and Assessors for the purpose of determining whether any, and, if so, what amount of compensation should be awarded, the Judge and Assessors shall take into consideration—

Matters to be considered in determining compensation.

First, the market value of the property or right injuriously affected at the time when the act was done or the work executed;

Secondly, the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right;

Thirdly, the consequent diminution of the market value of the property or right injuriously affected when the act was done or the work executed;

Fourthly, whether any person has derived, or will derive, benefit from the act or work in respect of which the compensation is claimed, or from any work connected therewith, in which case they shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed to such person.

But the Judge or Assessors shall not take into consideration—

Matters not to be considered in determining compensation.

First, the degree of urgency which has led to the act or work being done or executed;

Secondly, any damage sustained by the claimant, which, if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

PART VI.

Cost of Works, Proceedings, &c.

1. *Ascertainment thereof.*

42. The provisions of section 47 and the following sections in this Part contained shall not apply to any of the embankments mentioned in Schedule (D) to Bengal Act VI of 1873 annexed, or which may be hereafter included therein, save so far as any works or repairs are executed therein or in relation

Embankments in Schedule (D).

thereto under the provisions of section 18 or of section 31; or to any of such embankments as may hereafter be erected for the protection of lands which at the commencement of this Act are protected by the embankments mentioned in the aforesaid schedule, save so far as the erection of such embankments may protect lands not protected by the embankments mentioned in the aforesaid schedule. All sums payable in respect of any works or repairs executed in or in relation to the embankments mentioned in the aforesaid schedule, except under the provisions of section 18 or of section 31, shall be paid by the Government.

Exclusion from Schedule (D).

43. If at any time after the commencement of this Act, on enquiry made by the Collector as far as possible in accordance with the provisions of Part II of this Act, it shall be found that it is unnecessary for the public interests to retain any embankment mentioned in the said Schedule (D), or any embankment or water-course which may have been included in the said Schedule (D) under the clause next following of this section, the Lieutenant-Governor may direct that the same shall be no longer included in the said schedule: Provided that the Lieutenant-Governor may restore the same to the said schedule if on any subsequent enquiry similarly conducted it shall appear to the Lieutenant-Governor that it is necessary so to do.

Addition to Schedule (D).

The Lieutenant-Governor may, at any time after the passing of this Act, by a notification published in the *Calcutta Gazette*, direct that any embankment not mentioned in the said Schedule (D), or any water-course, be included therein, and the provisions of this section shall apply to such embankment or water-course.

Contribution of public money towards the maintenance of the embankments in the pergunnahs entered in Schedule (E) to be continued.

44. In accordance with the custom heretofore in force in respect of the pergunnahs entered in Schedule (E) annexed to Bengal Act VI of 1873, the Government shall continue to contribute annually the sum noted therein for each pergunnah respectively towards the maintenance of the embankments thereof.

45. If the embankments maintained in either of the said pergunnahs shall at any time be declared to be public embankments under the provisions of section 7, the Collector shall, from the date of such declaration, keep a separate account for such pergunnahs, in which the aforesaid sum shall be credited at the commencement of each financial year. The unexpended balance at the close of each year shall be carried on to the credit of the account in the next succeeding year, and shall be available for the cost of repairing or erecting all the embankments which it may be deemed necessary to maintain in such pergunnah.

If such embankments are declared to be public, Collector to keep a separate account.

46. If at any time after the commencement of this Act, on an enquiry made by the Collector as far as possible in accordance with the provisions of Part II, it shall be found that it is unnecessary for the public interests to retain any embankment in either of the said pergunnahs, the Lieutenant-Governor may direct that such contribution shall cease in respect of such pergunnah: Provided that such contribution shall again be made in accordance with the provisions hereinbefore contained, if it shall appear to the Lieutenant-Governor, on the report of an enquiry similarly conducted, that the maintenance of any embankment in such pergunnah has again become necessary for the public interest.

Contribution may be discontinued if it be found unnecessary for the public interest to maintain the embankments.

47. Subject to the provisions of Part III of this Act, before the Collector or the Engineer undertakes, under the provisions of this Act, the execution of any repairs or of any work other than any new work of which the estimates, specifications, and plans have been prepared and deposited in the Collector's office for public inspection as provided in section 7, specifications and estimates of the expenses to be incurred in respect of the repairs or works, including such proportion of establishment charges as the Lieutenant-Governor shall direct, shall be prepared by the Engineer.

Estimates and specifications to be prepared.

48. Whenever it appears that the actual expenses to be incurred in respect of any work will exceed by one-tenth any estimate of such work which may have been transmitted to the office of the Collector under the next succeeding section, the Engineer shall forthwith prepare further estimates, and, if necessary, further specifications.

Preparation of further estimates and specifications.

49. Copies of all specifications and estimates prepared under the two last preceding sections shall be transmitted to the office of the Collector, together with vernacular translations thereof, or such abstracts thereof as the Lieutenant-Governor may from time to time direct, and may be examined by any person interested in such works or repairs.

Estimates and specifications to be open to inspection.

50. A general notice of the receipt of any such specifications and estimates shall be published in the manner prescribed in section 80, and in such general notice shall be specified all estates chargeable for, or likely to be affected by, the said works or repairs. Special notices shall also be served in respect of every estate in which the area liable to the assessment of the apportioned charge is likely to exceed one hundred acres; or instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate chargeable for, or likely to be affected by, the said works or repairs. Should any objection in regard to such specifications and estimates be preferred by any such person within a period of one month from the date of service of such notice, the Collector shall pass such orders as may appear to him reasonable and proper.

Notice of receipt of estimates and specifications.

51. The accounts of the actual expense incurred in executing any works or repairs, or of any portion of the actual expenses with which the Collector may determine to deal separately under this and the following sections, shall be prepared as soon as possible after the completion thereof. The Engineer shall sign a certificate stating the amount of all such expenses, and

Preparation of accounts and Engineer's certificate of expenses.

specifying the boundaries of the lands which are benefited or affected by the said works or repairs, and stating generally how and to what extent the lands so specified, or any parts of them, are affected. Any such certificate may be amended at any time before the Collector has made an order charging or apportioning the amount under section 58. On receipt of such certificate or amended certificate, the Collector shall cause a statement to be prepared of the villages of which any lands are benefited or protected by such works and repairs, and of the estates to which they belong, and, except as otherwise in this Act provided, the zemindars of such estates and villages shall be liable to pay the said amount. Copies of the said accounts, certificates, and statements shall be deposited in the office of the Collector, and may there be examined by any person interested.

Notices and enquiry into objections.

52. General notice of the receipt and deposit of such accounts, certificates, and statements in the office of the Collector shall be given. Special notices thereof shall also be served in respect of every estate in which the area liable to assessment of the apportioned charges exceeds one hundred acres; or instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zemindars or tenure-holders of which any sum is charged or apportioned; and if, within one month of such general notice being given, or of such special notice (if any) being served on him, any interested person shall object to the accounts on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than those mentioned in the estimates, the Collector shall enquire into such objection, and pass orders thereon.

Total sum payable.

53. The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of the said works and repairs, whether as compensation, costs, and expenses under, and incidental to, any proceedings taken or

directed to be taken under Part II or Part V of this Act, or under sections 26 to 29 of Bengal Act VI of 1873, as cost of making of surveys and plans, as cost of preparing the estimates, accounts, certificates, and statements, as cost of the issuing and service of notices up to date, or on any other account, and shall then make an order specifying the total sum found payable, and in respect of works done under section 17 and section 31 the persons by whom, or in respect of other works, the estates in respect of which, the same is payable to him. If the order is made in respect of work done under section 17 or section 31, the same shall forthwith be served upon the party or parties liable to pay; otherwise the Collector shall proceed under the provisions in the next Chapter contained.

Interest.

Interest may be charged upon any sum paid as compensation from the date of payment thereof at five per centum, or at such rate, not exceeding five per centum per annum, as the Lieutenant-Governor may from time to time determine.

2. *Liability for the costs and apportionment thereof.*

Parties liable to pay.

54. The total sum aforesaid, save so far as is otherwise provided in this Act, shall be paid to the Collector by the zemindars of the estates in which are situated the lands benefited or protected by the repairs or works executed:

Proviso in respect of the pergunnahs in Schedule (E).

Provided that the sum standing to the credit of a pergunnah in Schedule (E) to Bengal Act VI of 1873 annexed in the account kept by the Collector, at the time when the total amount payable is fixed under the provisions of section 53, shall be deducted from the total amount payable in respect of such portion of any embankment as is situated in such pergunnah, and that the zemindars of the estates situated in such pergunnah shall be charged only with the balance of the amount (if any) which may remain payable.

Recovery from under-tenants.

55. Every zemindar, who is liable under the last preceding section for the payment of the whole or a portion of such total sum, shall be entitled to recover from the holder of every tenure held immediately under him, and from the holder of any land which is declared under the provisions of section 60 to form part of his estate, the sum apportioned to such tenure or land by the Collector under the provisions of section 59. And similarly, every tenure-holder shall be entitled to recover from the holder of any tenure subordinate to his own, and from the holder of any land declared under section 60 to form part of his tenure, the sum apportioned to such subordinate tenure or land by the Collector, under the said provisions.

Notice to be given before apportionment.

56. So soon as the total sum payable as aforesaid has been ascertained, the Collector shall cause general notice to be given specifying the estates in respect of which any portion of such total sum will be chargeable, and special notices to be served in respect of every estate in which the area chargeable exceeds one hundred acres; or instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zemindars or tenure-holders of which any sum is charged or apportioned. Such notices shall make it known that an enquiry will be held at a day and place therein named for the purpose of apportioning amongst the zemindars and tenure-holders the said total sum, with interest and the costs of apportionment.

Names of tenure-holders.

57. In any such enquiry the Collector shall take down in writing the names of all persons who may claim, or who may be alleged by any party interested, to be holders of tenures within any of the estates mentioned in such notice. In default of appearance of any such person, the Collector shall issue and serve a notice calling on him to appear at a date and place therein mentioned, and to show cause against being included in the order of apportionment to be made therein, and shall adjourn the enquiry till such date.

Apportionment amongst zemindars.

58. At such or any subsequently adjourned enquiry, the Collector, if there be only one estate liable, shall charge the zemindar thereof with the total amount payable; and if there be two or more estates, he shall apportion the same amongst the zemindars thereof, either—

(*a*) rateably in proportion to the respective benefits derived by such estates from such works or repairs; or

(*b*) in proportion to the areas of the lands benefited or protected thereby, and comprised within such estates respectively; or

(*c*) with the sanction of the local Government, in proportion to the amount of revenue payable for such estates respectively:

Provided that the said total amount payable in respect of the embankments on the right bank of the river Gunduk shall be chargeable, in accordance with the custom in force for such estates, to the zemindars of all the estates situated in the district of Sarun, in proportion to the amount of revenue respectively payable for such estates:

Provided also that the total amounts which may have been expended by the Government before the commencement of this Act, and the total amounts which may become payable in accordance with the provisions of this Act, on account of any year in respect of the embankments on the left bank of the river Gunduk in the district of Mozufferpore, shall be chargeable, and shall be deemed always to have been chargeable, in accordance with the custom hitherto in force in respect of such embankments; that is to say, chargeable to the zemindars of all the estates situated in the following pergunnahs, viz. Rati, Gadasand, Hajipur, Bhatsala, Garjaul, Nae, Suresa, and Balagach, in proportion to the amounts of land revenue payable for such estates respectively, but so that the amount out of any total sum apportioned in respect of each estate in Rati, Gadasand, and Hajipur, shall bear such a proportion to the land revenue payable for such estate as shall be twice as great as the proportion which the amount

apportioned in respect of each estate in the remaining pergunnahs shall bear to the land revenue payable for such estate.

Apportionment amongst tenure-holders.

59. The Collector shall, in like manner, except in respect of the said embankments on the right bank and left bank of the river Gunduk, charge or apportion the amount payable in respect of each estate upon or amongst the holders of the tenures therein rateably in the proportion of benefit so received or of area so benefited or protected, first deducting therefrom such sum as, on the like principle of proportion, is payable in respect of such portion of the estate as is not included within any tenure.

Provision as to lands held without payment of rent, not being estates.

60. All lands held without payment of rent not being estates may, for the purposes of this Act, be deemed to form part of any estate or of any tenure within the local boundaries of which they are included; and, if they are not included within the local boundaries of any estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal and signature, declare.

Amount apportioned payable by instalments.

61. The amount charged to or apportioned on any estate or tenure shall be payable in equal instalments on such days as the Lieutenant-Governor shall direct, provided that no instalment shall exceed four annas for every acre of land in respect of which the same is payable, and that not more than four instalments shall be payable in any one year.

Interest.

Interest shall be charged on the unpaid portion of the said amount from the date of apportionment until payment thereof at five per centum or at such rate, not exceeding five per centum per annum, as the Lieutenant-Governor may from time to time determine.

Apportionment of further expenses.

62. If after the apportionment of the expenses of any works and repairs as above prescribed any expenses not included in such apportionment shall be found to have been paid or to have become payable on account of the said works or repairs, whether as compensation or other-

wise, the Collector may proceed to apportion such further expenses in the manner in this Part provided.

Alternative power of apportioning estimated expenditure for a series of years.

63. Instead of the procedure prescribed above for charging upon and recovering from zemindars the expenses actually incurred in the repairs and maintenance of public embankments and water-courses and the works connected therewith, the Lieutenant-Governor may, by an order to be published in the *Calcutta Gazette*, direct that an estimate be made of the expenses to be incurred in respect of such repairs, maintenance, and works during any number of years, not exceeding thirty, which he may think fit; and may by a subsequent order fix the total sum payable during such number of years by the zemindars of the estates benefited by such repairs, maintenance, and works;

Provided that no order fixing such total sum shall be passed by the Lieutenant-Governor until three months after the amount of such estimate shall have been published in the *Calcutta Gazette* and by a general notice calling on all persons interested to prefer to the Collector any objections they may think proper against such amount being fixed as the total sum. Every such objection shall be submitted to the Lieutenant-Governor for his consideration.

Period included in the last section what to include.

64. The period fixed in any order under the section last preceding may include also years previous to the commencement of this Act, provided that in such case the total sum mentioned in the said section shall be calculated by adding the amounts actually expended before the making of such order, to the estimate of expenses to be incurred during the rest of the period included in such order.

Works in respect of which such estimate may be made.

65. The total sum mentioned in section 63 or in section 64 may be made recoverable in respect of the expenses of repairs and maintenance, and the expenses of works connected with the repairs and maintenance—

(*a*) of any protective works which may be specified in such orders;

(*b*) of all the public embankments and water-courses in any district; or

(*c*) of all the public embankments and water-courses within any tract of country specified in the order of the Lieutenant-Governor; and any such tract may contain the whole or portions of any one or more districts;

and no further sum shall be recoverable during such period in respect of the expenses of such repairs, maintenance, and works connected therewith, save so far as any such works or repairs are executed under the provisions of section 18 or of section 31.

But such total sum shall not include the expenses of executing any new works which may be undertaken under the provisions of this Act within any district or tract as aforesaid.

Recovery of cost of new works.

Whenever the Lieutenant-Governor shall declare that any work executed or to be executed within such district or tract is a new work within the meaning of this section, the cost of executing such work and of maintaining the same shall be payable by the zemindars to the Collector under the provisions of this Act, in addition to any total sum fixed under section 63 or section 64 as payable by them.

Mode of apportionment.

66. On publication of any order of the Lieutenant-Governor under section 63, the Collector shall proceed to charge or apportion the said total sum upon or among the zemindars and (except in respect of the embankments on the right and left banks of the river Gunduk as provided in section 58) among the tenure-holders who are liable to pay the same, as above provided.

Payment of sum apportioned.

67. The sum so apportioned in respect of any estate or tenure on account of any such period as is mentioned in section 63 shall be payable in equal portions in each of the years included in such period, and each such portion if unpaid shall carry interest at five per centum, or at such rate, not exceeding five per centum per annum, as the

Lieutenant-Governor may from time to time determine, from the end of the year in which it is payable.

Final order of apportionment.

68. On the completion of any charge or apportionment under this Act, the Collector shall make an order specifying the estates and tenures in respect of which any sum charged or apportioned is payable, and the sums payable in respect of each of the instalments of such sums, and the dates on which such sums are payable.

3.—*Recovery thereof.*

Publication of final order of apportionment.

69. As soon as may be after any final order of apportionment is made as provided in the section last preceding, the Collector shall cause copy of such order to be published with a general notice stating that the amounts apportioned on the zemindars in respect of estates are payable to the Collector, and the amounts apportioned on the tenure-holders in respect of tenures are payable to the zemindars or superior tenure-holders. Instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zemindars or tenure-holders of which any sum is charged or apportioned.

Recovery of sums apportioned.

70. If any such sum payable to the Collector, or any instalment thereof, be not, pursuant to the said order, paid, the same with interest may be recovered as arrears of a demand under the provisions of the Public Demands Recovery Act, 1880, or any similar Act for the time being in force.

Effect of opening separate account under Act XI of 1859 or Act VII of 1876.

71. When a recorded sharer of a joint revenue-paying estate has opened a separate account under Act XI of 1859, or under section 70 of Bengal Act VII of 1876, or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of all sums due under this Act, to all the advantages of separate liability enjoyed by him under the said Act XI of 1859, and Bengal Act VII of

1876 respectively, in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of a separate notice in every case in which special notice is by this Act required to be served, from the date on which such advantages shall take effect in respect of the demand of Government revenue.

Similar privileges shall attach to every recorded holder of a revenue-free estate who has opened a separate account under section 46 of Bengal Act IX of 1880 in respect of the amount of cesses payable by him.

Liability of estate for sum apportioned.

72. Notwithstanding anything contained in section 70, any such sum shall be a first charge on the estate in respect of which it is apportioned, and shall be deemed to be a demand debited to the estate in the public accounts of the district within the meaning of section 31 of Act XI of 1859, and such charge shall not be avoided by any sale, nor shall the joint liability of the entire estate for such sum be affected by any partition of the said estate which may subsequently take place.

Amount apportioned may be raised by leasing or mortgaging estate.

73. If the Collector thinks it inexpedient to proceed for the recovery of such sum or any part thereof under the provisions of section 70, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount necessary to discharge the sum or instalment remaining unpaid—

(*a*) by mortgaging the whole or any part of such estate;

(*b*) by letting in farm or managing by himself or another the whole or any part of such estate;

(*c*) partly by one of such modes and partly by another or others of them.

For the purposes of this section the Collector may exercise all the powers of the owner of such estate, and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

74. Every zemindar or tenure-holder to whom any sum or instalment thereof is payable under an order made in pursuance of section 68 may recover the same with interest as aforesaid in the manner provided for the recovery of arrears of rent in respect of putnee tenures by the provisions of clauses 2 and 3 of section 8, sections 9, 10, 14, 15, and clauses 1, 2, and 3 of section 17 of Regulation VIII of 1819, as amended by Bengal Act VIII of 1865, or by the provisions of any similar Act for the time being in force; provided that the right or interest of any person holding from the defaulter shall not be affected by any sale held under these provisions.

Recovery by zemindars and tenure-holders.

PART VII.

Penalties.

75. Whoever wilfully obstructs any person duly authorized under this Act in removing or levelling any embankment, house, hut, or other building, or in the lawful exercise of any of the powers in this Act conferred, shall, in case such obstruction shall not amount to an offence within the provisions of the Indian Penal Code, be liable to imprisonment of either description for any period not exceeding six months, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees.

Penalty for obstructing persons in exercise of powers conferred by Act.

76. (*a*) Every person who, in any of the territories to which this Act extends, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course, if such act is likely to interfere with, counteract, or impede any public embankment or any public water-course;

Penalty for unauthorized interference with embankments or drainage.

(*b*) every person who, within the limits of the tract included in any prohibitory notification under section 6, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new

Penalty for unauthorized interference with embankments or drainage in prohibited tract.

embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course; and

(*c*) every person who shall abet any such act as is mentioned in clauses (*a*) and (*b*),

Penalty for abetment of such acts.

shall be liable, on conviction, to a fine not exceeding five hundred rupees, or in default of payment to imprisonment of either description for a period not exceeding six months.

77. No person shall, without due authority, cut through, or attempt to cut through, any public embankment, or destroy, or attempt to destroy, any such embankment, or open or shut, or obstruct any sluice in any such embankment, or any public water-course; and every person who shall commit any breach of the provisions of this section shall, in case the act shall not amount to mischief within the meaning of the Indian Penal Code, be liable to imprisonment of either description for a term not exceeding one month, or to a fine not exceeding two hundred rupees.

Penalties for injuring embankments, &c.

78. Every person who shall make any dam or other obstruction for the purpose of diverting or opposing the current of a river or water-course wherein or whereon there are public embankments, without the permission of the officer in immediate charge of the embankments, or shall refuse or neglect to remove any such dam or obstruction so made by him when required to remove it by the Engineer, or without the permission of the Engineer previously obtained shall cut or otherwise alter the banks of any embanked river or water-course, or remove the earth from any public embankment, or drive stakes into it, or by any other wilful act destroy or diminish the efficiency of such embankment; and every person who without such permission shall cause or knowingly and wilfully permit any cattle to graze upon any such embankment, or tether

Penalties for diverting rivers or permitting cattle to graze on embankments, &c.

or cause or wilfully permit any cattle to be tethered upon any such embankment, or root up any grass or other vegetation growing on any such embankment, shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two hundrod rupees.

Obstructions to be removed and damage repaired.

79. Whenever any person is convicted of an offence under either of the three last preceding sections, the convicting Magistrate may order that he shall remove the embankment or obstruction, or repair the damage, in respect of which the conviction is held, within a period to be fixed in such order. If such person neglects or refuses to obey such order within the fixed period, the Engineer may remove such embankment or obstruction or repair such damage, and the cost of such removal or repair shall be levied from such person in addition to any other penalty in the manner provided in section 307 of the Code of Criminal Procedure.

PART VIII.

Miscellaneous.

Mode of publishing proclamations and issuing notices.

80. Every proclamation and general notice by this Act required to be issued or given shall be published by affixing a copy of the same in the office of every Collector, Sub-Divisional Officer, and Munsif within whose jurisdiction, and at every police-station within the limits of which, any lands affected by such proclamation or notice are known by the Collector to be situated; and by affixing copies of the same in conspicuous positions in such hâts, bazars, towns, villages, or other public places as the Collector may direct; and also by giving notice by beat of drum at such public places that such copies have been affixed and that one copy of the papers containing the information which is the subject of such proclamation or general notice is open to inspection by all concerned at the office of the Collector.

Service of special notices.

81. Every special notice or order by this Act required to be served shall be served,

(1) by delivering a copy of the same to the person to whom it is directed, or, on failure of such service, by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorized to appear generally for the person to whom such notice or order is directed; or

(2) by sending a registered letter containing a copy of such notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside; or

(3) by posting a copy of the notice or order at the mal-cutcherry of the estate, village, or tenure to which the same relates; or if no such mal-cutcherry be found, on some conspicuous place on the said estate, village or tenure; or

(4) if the person on whom the notice or order is to be served is a zemindar, by delivering a copy thereof to the agent who shall have paid an instalment of revenue next before or who may pay the instalment next after the preparation of such notice or order, on behalf of such zemindar.

In all cases where two or more persons are holders of an estate or tenure, service under the last two clauses shall be deemed to be good and sufficient service on each and all of such persons.

Powers of Collector and Commissioner on enquiry and appeal.

82. In any enquiry or appeal held under this Act, the Collector and the Commissioner shall respectively have the same powers as those conferred on Courts by the Code of Civil Procedure of summoning and examining witnesses and compelling the production of documents.

No proceedings to be impeached for mistake or want of form.

83. No proceedings under this Act shall be impeached or affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay; provided the directions of this Act be in substance and effect complied with; and no proceedings

under this Act shall for want of form be quashed or set aside in any Court of Justice.

Appeal from orders.

84. Every order passed by the Collector in respect of applications under section 18, and every order passed under sections 11, 50, 52, or 68, shall be appealable to the Commissioner of the Division, and every such order of the Commissioner, except when otherwise directed by this Act, shall be appealable to the Board of Revenue, but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order.

General control of Commissioner and Government.

85. All the powers of a Collector under this Act shall be exercised under the general control and orders of the Commissioner of the Division, and all the powers of Collectors and Commissioners shall be exercised subject to the general control and orders of the Board of Revenue and of the Government.

Every order passed by any of the said authorities shall be subject at any time to be varied or set aside by the controlling authority.

Orders to be final.

86. Subject to the provisions of the two sections last preceding, every order passed by the Collector in respect of applications under section 18 and every order passed under sections 11, 50, 52, or 68, and every order passed by a controlling authority in respect of such order of a Collector, shall be final, and not liable to be modified or altered otherwise than as expressly provided in this Act.

Disposal of lands no longer required for embankments.

87. Whenever the maintenance of any public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be restored by the Collector to the estate or tenure from which such land was originally taken on repayment of the compensation, if any, which was paid for such land when the same was taken for the purpose of the embankment. If persons who

are entitled to the restoration of any land under this section, or any of them, refuse or neglect to pay such price within a reasonable time after demand, the same shall be sold by the Collector as a revenue-free holding for such price as he can obtain for the same. All sums obtained for lands conveyed under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of any new embankment or drainage works, or of the expenses of maintaining any embankment or drainage works affecting the said lands and other adjacent lands, in reduction of the amount chargeable upon the zemindars and tenure-holders of the lands benefited, as hereinbefore provided, if any amount be so chargeable.

Collector may delegate any of his powers to a Deputy Collector.

88. A Collector may delegate any of his powers under this Act to a Deputy Collector, but from any order passed by a Deputy Collector to whom powers have been so delegated, an appeal shall lie to the Collector if presented within thirty days of the date of the order.

Every such delegation of powers shall be reported to the Commissioner of the Division.

Jurisdiction.

89. All offences created by this Act shall be enquired into and tried by a Magistrate of the first or second class.

Power to make, alter, and cancel rules.

90. The Lieutenant-Governor may from time to time make rules consistent with the provisions of this Act to regulate the following matters :—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(*b*) the business of Embankment Committees;

(*c*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(*d*) the person by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done ;

(*e*) the amount of any charge made under this Act ; and

(*f*) generally to carry out the provisions of this Act.

The Lieutenant Governor may from time to time alter or cancel any rules so made.

Publication of rules.

Such rules, alterations, and cancelment shall be published in the *Calcutta Gazette*, and shall thereupon have the force of law :

Provided that no rules shall be made by the Lieutenant-Governor under the powers conferred on him by this section until a draft of the same shall have been published in the *Calcutta Gazette* for one month, after which time the Lieutenant-Governor may pass such rules as originally published, or with such alterations, additions, and omissions as he may think fit.

Saving of operation of certain Acts.

91. Nothing in this Act shall apply to any embankment, land, or watercourse which is under the operation of any of the following Acts :—

The Bengal Drainage Act, 1880.

The Bengal Irrigation Act, 1876.

Bengal Act V of 1864. *(An act to amend and consolidate the law relating to the collection of Tolls on Canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the provinces under the control of the Lieutenant-Governor of Bengal)*

PART IX.

Special provisions for the Province of Orissa.

Powers conferred on Superintendent of Embankments in Orissa.

92. The powers conferred on the Collector by section 25 may, in the Province of Orissa, be exercised by the Superintendent of Embankments with the consent of the Collector previously obtained, and the references in the said section to other parts of this Act shall be deemed to be references to the corresponding portions respectively of Act XXXII of 1855 (*An Act relating to Embankments*). The consequences mentioned in section 26 shall

attach to everything done by the Superintendent of Embankments under the provisions of this section.

Power to Engineer to act in urgent cases.

93. In cases in which the Engineer in charge of any Embankment may be of opinion that delay for the purpose of obtaining the orders of the Superintendent of Embankments and the Collector would be attended with grave and imminent danger to life or property, the Engineer may exercise the powers conferred on the said Superintendent with the consent of the Collector in pursuance of the last preceding section. The Engineer shall forthwith report to the said Superintendent any action taken by him under this section, and shall be guided by any instructions which he may receive from him in respect thereof.

Sections made applicable to Orissa.

94. Sections 4, 5, 6, 34, and 76 shall extend to the Province of Orissa, the words "Superintendent of Embankments" being substituted for the word "Collector" in clauses (*a*) and (*b*) of section 76.

SCHEDULE.

SCHEDULE I.—(*Referred to in section* 2.)

(Portions of Bengal Act VI of 1873 which are not repealed.)

Power to take possession of land.

12. *Whenever any land or earth from any land the property of any person, is required for the purposes of any works commenced in pursuance of the provisions of the last preceding section, or for the purposes of section* 18 *in cases where the Collector shall be of opinion that proceedings for the acquisition of such land according to the provisions hereinafter contained in section* 25, *would cause delay as aforesaid, the Collector shall cause a proclamation to be issued in form in Schedule (B) annexed to this Act, giving notice thereof at convenient places in the locality in which such land is situated, and he may at the same time take possession of the same for the said purposes.*

Compensation for standing crops and trees.

13. *The Collector shall ascertain and record the nature and estimated value of the crops and trees (if any) standing on such land, and shall offer*

adequate compensation to the persons interested If such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions of section 29 :

21 (Proviso).—Provided always that in case the Collector be of opinion that the delay required by such proceedings is likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to cause such trees, houses, huts, or buildings to be removed, and in such case the compensation due therefor shall be ascertained and paid in the manner hereinafter provided.

When land taken, proclamation to be published.

26. Whenever any land shall have been taken or used under the provisions of Part III, the Collector shall cause a proclamation to be issued in form in Schedule (C) annexed to this Act at convenient places on or near the land so taken, stating that Government has taken possession of the land, and that claims to compensation for all interests in such land shall be made to him. Thereupon the land shall vest absolutely in the Government free from all encumbrances, subject, however, to the claims for compensation to be ascertained in manner as in this Part is provided.

Contents of proclamation

27. Such proclamation shall state the particulars of the land so taken, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of issuing the proclamation), and to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interest.

Further notice to be served on certain parties.

28. The Collector shall also serve notice to the same effect on the occupier (if any) of such land; and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

29. *After service of such notice proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act, X of 1870, or other law for the time being in force for the acquisition of land for public purposes.*

Proceedings after notice.

Schedules B, C, D, and E.

SCHEDULE II.—(*Referred to in section* 2.)

Section of Bengal Act VI of 1873 in which the reference is made.	The reference as it stands.	To what portion of the present Act the reference is to be read to apply.
Section 12	To "the last preceding section."	Section 25.
Section 12	To section 18 ...	Section 30.
Section 12	To section 25 ...	Section 37.
Section 21	To "such proceedings."	Section 19.
Section 26	To Part III ...	Part III.
Section 26	To "this Part" ...	Part V.

SCHEDULE III.—(*Referred to in section* 8.)

Notice is hereby given, as required by section 8, Bengal Act II of 1882, to all persons interested, that it appears to the Collector that the following work should be done; that is to say [here state the nature of the work and the purpose for which it is to be undertaken]. * *For the execution of this work the undermentioned land will be required to be taken up :—*

1	2	3
Pergunnah in which land is situated.	Village in which land is situated.	Area of land.

Estimates of the proposed work, with the necessary specifications and plans, together with a copy of the survey map showing the lands likely to be affected by the said work, are open for

* The words in italics and the tabular form to be omitted if no land is to be acquired.

inspection at this office by any interested person who is allowed to take copies thereof.

* The total probable cost of such work will be the sum of Rs. , and the rate per acre of the area benefited or protected by the said work is estimated at Rs.

The following estates and villages will probably be affected by the work proposed [*here set out a list of the estates and villages*]:

Any person interested and wishing to show cause against the execution of the works specified, is hereby required to appear before the Collector for that purpose on the day of

The day of

A. B.,

Collector of

* These words may be omitted, unless it is proposed to recover the cost of the work from the zemindars and tenure-holders

Reg No 3858C—2,000—1-7-84.